

LINTEL SUPPORTED MASONRY WALL SYSTEM AND METHOD

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in the applications:

Listing of Claims:

1. **(Original)** A wall structure having an above ground wall, said wall structure comprising in combination:
 - a) a plurality of footings disposed at least partially in the ground at each end of said wall;
 - b) said wall including a lintel receiving support at each end from said footings and a plurality of courses extending upwardly from said lintel;
 - c) at least one tensioning rod extending upwardly from said lintel into said wall; and
 - d) at least one further tensioning rod extending upwardly from within each footing and adapted for resisting tilting of said wall.
2. **(Original)** The wall structure as set forth in Claim 1 including a plate disposed on each of said footings for supporting an end of said lintel.

3. **(Original)** The wall structure as set forth in Claim 1 including a post extending from each of said footings, said at least one further tensioning rod extending upwardly into said post, said post including a vertical slot for receiving an end of said wall.

4. **(Original)** The wall structure as set forth in Claim 3 including a plate disposed on each of said footings for supporting said post and said lintel.

5. **(Original)** The wall structure as set forth in Claim 4 wherein an end of said lintel extends into said slot of said post.

6. **(Original)** The wall structure as set forth in Claim 3 including at least one rebar disposed longitudinally within said lintel and grout for imbedding said rebar and a lower end of said tensioning rod within said lintel.

7. **(Original)** The wall structure as set forth in Claim 1 wherein said lintel is generally C-shaped in cross section.

8. **(Original)** The wall structure as set forth in Claim 7 wherein said lintel includes a longitudinally oriented upwardly facing opening.

9. **(Original)** The wall structure as set forth in Claim 8 wherein said tensioning rods extend upwardly through said opening.

10-16. **(Cancelled)**

17. **(Original)** The wall structure as set forth in Claim 1 wherein said courses comprise concrete masonry units.

18. **(Original)** The wall structure as set forth in Claim 1 wherein said courses comprise bricks having at least one passageway therethrough.

19-22. **(Cancelled)**

23. **(Original)** A method for constructing an above ground wall, said method comprising in combination:

a) developing a footing at least partially in the ground at each end of the wall to be built;

b) installing at least one tension rod to extend upwardly from each footing;

c) placing a plate on each footing;

d) building a post on each plate with blocks to provide a vertical cavity for receiving the at least one tensioning rod and to provide a vertical slot for receiving an end of the wall to be built;

e) placing a lintel on each of the plates to locate the ends of the lintel in the slots of the respective posts and above ground;

f) laying a plurality of courses upon the lintel, each of the courses extending into the slots of the respective one of the posts; and

g) installing a plurality of tensioning rods extending from within the lintel upwardly into the wall during exercise of said step of laying.

24. **(Original)** The method as set forth in Claim 23 wherein said step of laying includes the step of laying concrete masonry units.

25. **(Original)** The method as set forth in Claim 23 wherein said step of laying includes the step of laying bricks.

26. **(Original)** A wall structure having an above ground wall, said wall structure comprising in combination:

a) a plurality of footings disposed at least partially in the ground at each end of said wall;

b) said wall including a lintel receiving support at each end from said footings and a plurality of courses extending upwardly from said lintel;

c) at least one rod extending upwardly from said lintel into said wall;

d) a post extending from a respective one of said plurality of footings for supporting an end of said wall, said post including a vertical slot for receiving the corresponding end of said wall; and

e) at least one further rod extending upwardly from within each a respective one of said plurality of footings into the respective one of said posts and

adapted for resisting tilting of said post.

27. **(Original)** The wall structure as set forth in Claim 26 including a starter course disposed on the respective one of said plurality of footings for supporting an end of said lintel.

28. **(Original)** The wall structure as set forth in Claim 26 including at least one rebar disposed longitudinally within said lintel and grout for imbedding said rebar and a lower end of said rod within said lintel.

29. **(Original)** The wall structure as set forth in Claim 26 wherein said lintel is generally C-shaped in cross section.

30. **(Original)** The wall structure as set forth in Claim 29 wherein said lintel includes a longitudinally oriented upwardly facing opening.

31. **(Original)** The wall structure as set forth in Claim 30 wherein said rods extend upwardly through said opening.

32. **(Original)** A method for constructing an above ground wall, said method comprising in combination:

a) developing a footing at least partially in the ground at each end of the wall to be built;

- b) installing at least one rod to extend upwardly from each footing;
- c) building a post on each footing with blocks to provide a vertical cavity for receiving the at least one rod and to provide a vertical slot for receiving an end of the wall to be built;
- d) locating the ends of a lintel in the slots of the respective posts and above ground;
- e) laying a plurality of courses upon the lintel, each of the courses extending into the slots of the respective one of the posts; and
- f) installing a plurality of rods extending from within the lintel upwardly into the wall during exercise of said step of laying.

33. **(Original)** The method as set forth in Claim 32 wherein said step of laying includes the step of laying concrete masonry units.

34. **(Original)** The method as set forth in Claim 32 wherein said step of laying includes the step of laying bricks.

REMARKS

The objections to Claims 1-2, 4-8 and 26-30 are not understood as Claim 1 recites in paragraph (b) “said wall including a lintel...”. Moreover, in the Examiner’s quotation of Claim 1 in the rejection under 35 USC § 103, the same language is recited. One must therefore come to the inescapable conclusion that antecedent basis for reciting “said lintel” exists in Claims 1, 2, 4, 5, 6, 7 and 8. Withdrawal of this rejection is respectfully requested. Similarly, Claim 26 in paragraph (b) recites “said wall including a lintel...”. Accordingly, antecedent basis for “said lintel” in Claims 27, 28, 29 and 30 exists. Withdrawal of these rejections is respectfully requested.

Claims 1-9 and 17-18 have been rejected as describing subject matter obvious over certain teachings contained in the Gravier patent in view of further teachings contained in Applicant’s ‘567 patent. In particular, the Examiner contends that the sole deficiency in the Gravier patent is that it does not “teach at least one tensioning rod extending upwardly from said lintel into said wall”. A contention is made that the ‘567 patent teaches post tensioning rods having one end embedded in a footer and extending upwardly through the wall. A conclusion is therefore reached that it would be obvious to incorporate the post tensioning rods in the Gravier apparatus and if so done, the invention as set forth in Claims 1-9 and 17-18 would result. For reasons set forth below, this conclusion is not warranted by the teachings set forth in the applied patents.

The Gravier patent does not teach the use of a lintel. For example, element 18 in Figure 1 refers to “leveling pads” for the individual fence block rows (see Column 4, lines 1-3). To the cognicenti, it is clear that leveling pads are not the equivalent of a lintel. Elements 88 and 89, shown in Figure 6, are not lintels. They are footings for supporting the individual panels (see column 6, lines 56-60).

Claim 1 in paragraph (b) clearly recites a lintel receiving support at each end from footings and supporting a plurality of courses. Neither the Gravier nor Applicant’s ‘567 patent teach such structure. Furthermore, such structure is not suggested in either of the prior art patents.

Furthermore, paragraph (c) of Claim 1 recites tensioning rods extending upwardly from the lintel into the wall. Neither of the applied patents incorporate or suggest such structure.

It is therefore respectfully suggested that the rejection under 35 USC § 103 of Claim 1 be withdrawn.

As Claims 2-9 and 17-18 depend directly or indirectly from allowable Claim 1, it is respectfully requested that the rejection of these Claims be withdrawn.

Claims 7-9 have been rejected as reciting subject matter obvious over certain teachings contained in the Gravier patent, Applicant’s ‘567 patent and the Wallin patent.

For reasons set forth above, Claim 1, from which Claims 7 and 9 depend, is allowable over the Gravier and Applicant's '567 patent. The Examiner's sole reason for citing the Wallin reference is for the teaching of a C-shaped lintel. The lintel taught in the Wallin patent is element 10 located at the top of the wall. The element the Examiner refers to is a "routing 9" (see in particular column 3, lines 63-65). Considering that neither the Gravier nor Applicant's '567 patent teach a lintel and that the only lintel taught in Wallin resides at the top of the wall wherein it cannot perform a supporting function for courses of brick placed thereon (as is the case in the present invention), one skilled in the art, having knowledge of these three patents, could not possibly derive in any sense of 35 USC § 103 the structure recited in Claim 1 in combination with the further structure recited in Claims 7-9.

One must therefore come to the inescapable conclusion that Claims 7-9 recite allowable subject matter.

Claims 23-25 have been rejected as reciting subject matter obvious over certain teachings contained in the Gravier patent and Applicant's '567 patent.

For reasons set forth above, neither the Gravier nor Applicant's '567 patent teach the use of a lintel. Accordingly, the step recited in paragraph (e) of Claim 23 "placing a lintel on each of the plates to locate the ends of the lintel in the slots of the respective posts and above ground" cannot possibly be carried out by any structure taught in either of the two patents used in support of the 35 USC § 103 rejection of Claim 23-25.

Again, one must come to the inescapable conclusion that Claim 23 recites a method that cannot and could not be carried out by assembling any combination of structures disclosed in the Gravier and Applicant's '567 patent. As Claims 24-25 depend from Claim 23, the methodology recited therein similarly could not be carried out.

Withdrawal of the rejection of Claims 23-25 under 35 USC § 103 is respectfully requested.

Claims 26-31 have been rejected under 35 USC § 103 as reciting subject matter obvious over the Gravier patent in view of further teachings contained in Applicant's '567 patent. For reasons set forth above, neither of these two patents teach nor incorporate the use of a lintel.

As a lintel is clearly recited in paragraph (b) of Claim 26, Claim 26 recites subject matter not derivable from and hence not obvious over any combination of teachings contained in the two applied patents.

As Claims 27-31 depend from Claim 26 and recite further elements, they are also allowable.

Withdrawal of the rejection of Claims 26-31 under 35 USC § 103 is respectfully requested.

Claims 29-31 have been rejected under 35 USC § 103 as reciting subject matter obvious over certain teachings contained in the Gravier patent, Applicant's '567 patent in view of further teachings contained in the Wallin patent. For reasons set forth above with respect to the same rejection of Claims 7-9, the lintel taught in Wallin does not serve and cannot serve the same purposes as the lintel recited in Claim 26 from which Claims 29-31 depend.

Withdrawal of the rejection of Claims 29-31 is respectfully requested.

Claims 32-34 have been rejected under 35 USC § 103 as reciting a method obvious over certain teachings contained in the Gravier patent in view of Applicant's '567 patent. As set forth above, neither of these two patents teach the use of a lintel. Accordingly, the step set forth in paragraph (d) of 32 "locating the ends of a lintel in the slot of the respective posts above ground" cannot be carried out by any combination of structures set forth in the Gravier and Applicant's '567 patent. Accordingly, withdrawal of the rejection under 35 USC § 103 of Claims 32-34 is respectfully requested.

As set forth above, Claims 10-16 and 19-22 have been cancelled pursuant to an earlier imposed restriction requirement.

In view of the cancellation of certain of the claims, the apparent lack of basis for the objection to certain of the claims, the detailed discussion of the pertinence of each of

the three patents cited in support of the various 35 USC § 103 rejections and correlating same with the subject matter recited in the respective claims, it is believed that the application is in condition for allowance, which allowance is respectfully requested.

Respectfully Submitted,

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